formed, the wages earned up to the time of discharge shall become immediately due and payable, and, if not paid within twenty-four hours after demand, the corporation shall be subject to penalty of five dollars a day. By virtue of this statute the plaintiff recovered $1.93 wages due him by defendant at the time he was discharged, and $95.00, the accumulated daily penalty of five dollars per day for delay in payment. *Held* that the statute did not deprive the corporation of its property without due process of law, or deny it the equal protection of the laws and the liberty of contract. *Wynne* v. *Seaboard Air Line Ry.* (S. C. 1913) 79 S. E. 521.

The decision in this case was predicated on the constitutional right conferred on the Legislature to alter or repeal all charters of incorporation, CONST. 1895, Art 9, § 2, and upon such foundation is supported by the weight of authority: *St. Louis etc. R. R. Co.* v. *Paul,* 173 U. S. 404; *Lawrence* v. *Rutland R. R. Co.* 80 Vt. 370; *Sinking Fund Cases,* 99 U. S. 700; *Commissioners* v. *Holyoke Water Power Co.,* 104 Mass. 446; *Greenwood* v. *Freight Co.* 105 U. S. 13; *Spring Valley Water Works* v. *Schottler,* 110 U. S. 347. But see *State* v. *Haun,* 61 Kans. 146; *State* v. *Goodwill,* 33 W. Va. 179; *Frorer et al.* v. *People,* 141 Ill. 171; *State* v. *Loomis,* 115 Mo. 307; *Godcharles* v. *Wigeman,* 113 Pa. St. 431. The court also sustained its decision under the power of the state to legislate for the common good,—commonly called the police power: *Chicago etc. Ry. Co.* v. *McGuire,* 219 U. S. 549; *Johnson* v. *Spartan Mills,* 68 S. C. 339; *Knoxville Iron Co.* v. *Harbison,* 183 U. S. 13; *Railway* v. *Mackey,* 127 U. S. 205. It is observed that the hardship attending the needy laborer by withholding his wages is far greater than the inconvenience to the corporation of departing from their custom or regulation in paying a just debt; and moreover, by such prompt payment, the laborer could use the money in seeking other employment, thereby preventing him from becoming a burden to the state. Besides this the statute tends to prevent dissatisfaction among laborers, and hence, tends to prevent agitation and strikes among them, which is a matter of grave public policy. See contrary theory in *Ritchie* v. *Illinois,* 155 Ill. 98.

MUNICIPAL CORPORATIONS—ACTIONS—CONDITIONS PRECEDENT.—A statute provided that no action should be maintained against a village for damages for personal injury, unless a written notice of the claim had been filed with the village clerk within 60 days. Plaintiff, an infant, five years of age, without complying with this statute in respect of notice, sued a municipality, which moved to dismiss the complaint upon the ground of plaintiff's failure to file the requisite notice. *Held,* that a child five years of age is not precluded from bringing suit by failure to file the notice specified in the statute; and further, that a child of that age should not be prejudiced by the failure of its father or mother to file the same. *Murphy* v. *Village of Ft. Edward,* (N. Y. 1913), 144 N. Y. S. 451.

This decision runs counter to many decisions both in New York and elsewhere. That the filing of the statutory notice is a condition precedent to the right to maintain an action is supported by ample authority in New York and in the states generally. *Winter* v. *City of Niagara Falls,* 190 N. Y. 198,

82 N. E. 1101; *Reining* v. *City of Buffalo,* 102 N. Y. 308, 6 N. E. 792; *Porter* v. *Kingsbury,* 71 N. Y. 588; *Carson* v. *Village of Dresden,* 202 N. Y. 414, 95 N. E. 803; *Postel* v. *Seattle,* 41 Wash. 432, 83 Pac. 1025; *Schmidt* v. *City of Fremont,* 70 Neb. 577, 97 N. W. 830; *City of Ft. Worth* v. *Shero,* 16 Tex. Civ. App. 487, 41 S. W. 704; *Trost* v. *City of Casselton,* 8 N. D. 534, 79 N. W. 1071. It is true that where the plaintiff is mentally or physically disabled to such a degree as to render him unable to file the notice within the time prescribed, he will be excused for his failure to do so. *Webster* v. *Beaver Dam,* 84 Fed. 280; *Barclay* v. *Boston,* 167 Mass. 596, 46 N. E. 113. But mere personal disability, though it renders plaintiff helpless, will not of itself, as a recent North Carolina case points out, relieve plaintiff of the duty of giving notice, where it is possible for him to utilize his friends for the purpose of notifying the city. *Hartsell* v. *City of Ashville,* (N. C. 1913), 80 S. E. 226. It is difficult to reconcile the decision of the principal case with the proposition laid down in *Winter* v. *Niagara Falls,* supra. It was there held that the provision of a charter with regard to the time for presenting a claim against a city was not a statute of limitation, the running of which would suspend during infancy; that such a provision did not relate to the commencement of an action, but was a bar to an action against the city. One of the judges in the principal case, referring to the *Niagara Falls* case, called attention "to the fact that plaintiff in that case was 18 years of age 'and so far as the complaint shows, presumably able to cause a claim to be filed.'" If this was intended as a distinction, it is submitted that the distinction is groundless. First, because there are no degrees of infancy; and secondly, because it appears from the facts of the principal case that the mother of plaintiff had been zealously protecting plaintiff's rights, a suit prior to this action having been prosecuted against a railroad company for the same injury, and that plaintiff might easily have filed the claim. This last fact, within the principal of *Hartsell* v. *City of Asheville,* supra, would be sufficient to hold plaintiff to the general rule.

MUNICIPAL CORPORATIONS—RIGHT OF TAXPAYER TO SUE ON CONTRACT MADE BY CITY WITH WATER COMPANY.—Plaintiff, as citizen of Albuquerque, sued defendant water company for loss sustained by reason of defendant's failure to provide the sufficient water pressure called for by the contract between defendant and the city. *Held*: A taxpayer has no such direct interest in the contract as will allow him to sue *ex contractu* for breach, or *ex delicto* for violation of the public duty thereby assumed. *Braden* v. *Water Supply Co.,* (N. M. 1913), 135 Pac. 81.

This case, one of first impression in New Mexico, adds another state to the already formidable list of states that deny the right of the taxpayer to bring action under such circumstances. It appears that but three states, Kentucky, North Carolina, and Florida, allow a recovery. In *Paducah Lumber Co.* v. *Paducah Water Supply Co.,* 89 Ky. 340, 25 Am. St. Rep. 536, plaintiff was allowed to recover on the ground that the benficiary of a contract has the power to sue in his own right, though no privity exists between him and the defendant. In *Fisher* v. *Greensboro Water Supply Co.,* 128 N. C. 375,